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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/713,965	11/15/2000	David R. Scott	277-P-32-USA	5189

7590 04/19/2007
Drummond & Duckworth
4590 MacArthur Blvd
Suite 500
Newport Beach, CA 92660

EXAMINER

BLECK, CAROLYN M

ART UNIT	PAPER NUMBER
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3626

MAIL DATE	DELIVERY MODE
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04/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/713,965

Applicant(s)

SCOTT, DAVID R.

Examiner

Carolyn M. Bleck

Art Unit

3626

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See continuation sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 8-12.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: See the attached PTO-892.

Carolyn Bleck
Patent Examiner-3626
4/16/07

Continuation of 3. Note:

Claims 8 and 12 have been amended to recite the rescue mission provider specifying that the rescue mission shall result in the movement of the satellite from an unintended orbit to an intended "operational" orbit and initiating a rescue mission and moving the satellite from the unintended orbit to an intended "operational" orbit. The shift in scope of the claims made by these amendments will require further search and consideration.

Continuation of 11. does NOT place the application in condition for allowance because:

(A) Applicant argues at pages 8-9 that the rejection in the previous Office Action (mailed 3/29/2007) should not have been made final.

In response, the Examiner respectfully submits that Applicant amended claims 8 and 12 in response to the Non-Final Office Action (mailed 12/28/2005). These amendments narrowed the scope of claims 8 and 12. For example, Applicant amended claim 8 to recite that a launch insurance policy was obtained "prior to launching the satellite" and further that the rescue mission provision providing for payment was to be "to a rescue mission provider" for initiation of a rescue mission. Similar amendments were made to claim 12. Based on these amendments the Examiner reconsidered the prior art and the rejections of narrowed claims 8 and 12 and determined that the Borghesi reference no longer applied. As such, the Examiner rejected the claims under 35 U.S.C. 103(a) and relied on the Otis reference in combination with taking Official Notice of some of the claimed features. Thus, it was proper for the Examiner to make the Office Action mailed 3/29/2007 final, and the rejection of claims 8-12 is maintained.

(B) Applicant argues at pages 9-10 that Official Notice was improper because the Applicant is not aware of towing coverage of the type described by the Examiner or of insurance policies providing rescues to individuals as described by the Examiner.

In response, the Examiner provides two references teaching these features. First, the report by the UNCTAD discloses at paragraph 45 covering towing expenses to a port where repairs are possible, where this towing and repair are reimburseable by insurers. Second, the Lavernhe abstract teaches insurance that covers the evacuation of a person when they are far away from their homes. The Examiner notes that Applicant fails to challenge the taking of Official Notice related to warranties for electronics and computers (see page 5 of the Final Rejection mailed 3/29/2007). As such, Applicant has admitted that these warranties are well known in the art.

(C) The argument on page 10 is directed towards features (i.e., providing a rescue mission for moving the satellite to an intended "operational" orbit) that have not been entered as of the present communication.